

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 10TH NOVEMBER 2006 / 19TH KARTHIKA 1928

W.A.No.2035 of 2006

AGAINST THE JUDGEMENT IN O.P.15498/2000 DATED 22/06/2006
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APPELLANT: PETITIONER:-

K.J.ABRAHAM, KATTOOR VEEDU,
CHENAPPADI P.O., KANJIRAPPALLY,
KOTTAYAM DISTRICT.

BY ADV. SRI.JOHNSON P.JOHN

RESPONDENTS:-

1. PRESIDING OFFICER,
LABOUR COURT, ERNAKULAM.
2. THE MANAGER,
HARISSONS MALAYALAM LTD.,
CHERUVALLY ESTATE, P.B.NO.2, ERUMELY P.O.,
KOTTAYAM - 686 509.

R2 BY ADV. SRI.ANTONY DOMINIC.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 07/11/2006, THE COURT ON 10/11/2006 DELIVERED THE
FOLLOWING:-

Dated, this the 10th day of November, 2006

JUDGMENT

V.K.Bali,C.J.

Delay condoned.

2. Government referred the dispute between the petitioner, who is now the appellant in this Writ Appeal, and the 2nd respondent-management pertaining to his suspension. The grievance of the petitioner-workman was that he has been suspended for two days, which amounts to punishment and the enquiry conducted in the matter was *ex parte* and without considering real facts and truth of the case. The action of the management in suspending him was irregular, illegal and against the accepted norms of the rules. The Labour Court by its award, Exhibit P13, dated 15th June, 1998 held that during the course of hearing the legality, propriety and validity of the enquiry were not at all challenged. It was not challenged even in the claim statement and further that despite several postings and

adjournments and information given to the workman, he did not chose to join the enquiry. It was further held that on the basis of available evidence, the enquiry officer had returned correct findings. There was no violation of principles of natural justice, fair play or common sense. It was further held that the allegation of the petitioner-workman pertained to victimization was also vague as also that in the exercise of its powers under Section 11-A of the Industrial Disputes Act, the Labour Court or Tribunal could not interfere with the two days suspension given to the petitioner. In so far as the plea of the petitioner that he was denied employment, it was held that the petitioner is still in the rolls of the management and free to report for duty. This was the stand of the management all through.

3. The petitioner before the learned Single Judge contended that he was never given any chance to rebut the plea of the management that he was not denied employment and still in the rolls of the management and that he is free to report for duty. This contention was repelled by observing that it could not be believed that a District Judge exercising the powers of Industrial Tribunal or Labour Court would refuse the request of

any party before him to adduce evidence and also that the petitioner could not dispute that even after the passing of the award he had not reported for duty.

4. Nothing at all has been urged to detract from the findings either recorded by the Labour Court in the award Exhibit P13 or in the impugned judgment passed by the learned Single Judge dated 22nd June, 2006. We find no illegality or impropriety in the order passed by the learned Single Judge. In fact, non-joining of his duties even after the award, which is not even under challenge in the present appeal and to rebut the same, no material at all has been placed before us which would clinch the issue. It would clearly suggest the intention of the petitioner so as not to resume his duty.

There is no merit in this appeal, which is hereby dismissed.

Sd/-
V.K.Bali
Chief Justice

Sd/-
P.R.Raman
Judge

vku/-

(True Copy)

P.A.to Judge.